

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES EDWARD WALLACE,

Plaintiff,

v.

ACOSTA,

Defendant.

No. 1:21-cv-01275-DAD-EPG (PS)

ORDER DIRECTING SERVICE BY THE
UNITED STATES MARSHAL WITHOUT
PREPAYMENT OF COSTS

Plaintiff James Edward Wallace is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. (ECF Nos. 1, 3, 9) In an order entered on January 14, 2022, the Court found service of the first amended complaint to be appropriate. (ECF No. 12). Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of Court is directed to forward the following documents to the U.S. Marshal:
 - a) One completed and issued summons for each defendant to be served;
 - b) One completed USM-285 form for each defendant to be served;
 - c) One copy of the first amended complaint (ECF No. 9) for each defendant to be served, plus one copy for the United States Marshal; and
 - d) One copy of this order for each defendant to be served, plus one copy for the United States Marshal.
2. Within ten days from the date of this order, the United States Marshal is DIRECTED

1 to notify the following Defendant of the commencement of this action and to request a
2 waiver of service in accordance with the provisions of Federal Rule of Civil Procedure
3 4(d) and 28 U.S.C. § 566(c):

4 a. **Acosta, an officer with the Lemoore Police Department on or around July**
5 **28, 2021.**

6 3. The United States Marshal Service is DIRECTED to retain the summons and a copy
7 of the first amended complaint in its files for future use;

8 4. The United States Marshal Service shall file returned waiver of service as well as any
9 request for waiver of service that are returned as undelivered as soon as they are
10 received;

11 5. If a waiver of service is not returned by the Defendant within sixty days of the date of
12 mailing the request for waiver, the United States Marshal Service shall:

13 a. Personally serve process and a copy of this Order on the Defendant pursuant to
14 Federal Rule of Civil Procedure 4 and 28 U.S.C. § 566(c);

15 b. Within ten days after personal service is effected, the United States Marshal
16 Service shall file the return of service for the Defendant, along with evidence
17 of any attempts to secure a waiver of service of process and of the costs
18 subsequently incurred in effecting service on said Defendant. Said costs shall
19 be enumerated on the USM-285 form and shall include the costs incurred by
20 the Marshal's office for photocopying additional copies of the summons and
21 the operative complaint and for preparing new USM-285 forms, if required.
22 Costs of service will be taxed against the personally served Defendant in
23 accordance with the provisions of Federal Rule of Civil Procedure 4(d)(2).

24 6. In the event that the Defendant makes an appearance in this action by filing an answer,
25 dispositive motion, or other pleading, the United States Marshals Service need not
26 personally serve the Defendant;

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